IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.2655/07
Rajendra Gupta Vs. Smt. Kanta Devi & Ors.

27.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Sunit Awasthi for petitioner.

Heard learned counsel for the petitioner.

This writ petition has been filed against the judgment dated 2.12.2006 whereby the appeal of the petitioner was rejected by the Additional District Judge No.3, Ajmer thereby upholding judgment and decree dated 3.2.2006 passed by Civil Judge (Sr. Division), Ajmer in the suit filed by the plaintiff-petitioner. Issue no.1 framed in the suit was to the effect whether the deceased father of the

defendant had borrowed a sum of Rs.25,000/- on payment of interest at the rate of 12% per annum against a pronote and issue no.2 was to the effect whether such pronote was forged. While issue no.1 was decided against the plaintiff, issue no.2 was also decided against him because it could not be proved by the plaintiff that a pronote was a forged document. The first appellate court rejected the appeal by appreciating in detail the evidence on record. Instead of filing second appeal, the petitioner had to file this writ petition because the valuation of the suit was only Rs.25,000/- and in such matters, second appeal is not maintainable in view of bar contained in Section 102 of the amended C.P.C.

Having heard the learned counsel

for the petitioner and perused the material on record, I do not find that findings recorded by the learned trial court on either of the issues suffer from any perversity in as much as the learned Additional District Judge also in appeal has analyzed the evidence in true and correct perspective. While there is no case for interference on merits, merely because the second appeal has been barred under Section 102 of the CPC, this would not be the reason for entertaining the writ of certiorari in the scope of Article 227 of the Constitution of India. Intention of the legislature in barring second appeal for matters having insignificant stakes cannot lost sight of even while entertaining the writ of certiorari.

I therefore do not find any merit in this writ petition.

The writ petition is dismissed.

(Mohammad Rafiq),J.

Rs/-